clamation shall cease to have effect upon the expiration of one month from the date upon which it was made, provided that a proclamation in force may be renewed by declaration of the Minister from time to time for such period not exceeding one month at a time, as may be specified in the declaration. Sub-sections (4) and (5) of the said section provide:

"(4) A proclamation made under sub-section (1) and a declaration of renewal made under sub-section (3) shall be published in such manner as the Minister thinks necessary for bringing it to the notice of all persons who in his opinion ought to have notice thereof and shall have effect as soon as such notice has been given, without publication in the *Gazette*.

(5) A copy of every proclamation made under sub-section (1) and of every declaration of renewal made under subsection (3) shall be published in the *Gazette* and laid before Parliament as soon as possible after it has been made and if resolutions are passed by both Houses of Parliament annulling such proclamation or declaration, it shall cease to have effect, notwithstanding the provisions of sub-sections (2) and (3), but without prejudice to anything previously done by virtue thereof."

In this case, neither did the charge preferred against the appellant quote the *Gazette* notification of the alleged proclamation nor was a certified copy of the proclamation published by the Minister produced in evidence by the prosecution. In the grounds of judgment, the learned magistrate stated:

"The place of incident was a proclaimed area and though no proper *Gazette* was produced by the prosecution the court could take judicial notice (see section 57 of the Evidence Ordinance No. 11 of 1950)."

Under section 57(1)(a) of the Evidence Ordinance, the court is bound to take judicial notice of all laws or regulations having the force of law now or heretofore in force or hereafter to be in force in any part of the Federation. The term "law" is defined both by Article 160(2) of the Federal Constitution and Item (43C) of section 2(1) of the Interpretation and General Clauses Ordinance, 1948 to include *written law*, the common law in so far as it is in operation in the Federation or any part thereof, and any custom or usage having the force of law in the Federation or in any part thereof. "Written law" is defined by Item (97) of the Interpretation and General Clauses Ordinance, 1948 to mean all Ordinances and Enactments in force in the Federation or any part thereof and all *subsidiary legislation* made thereunder, and includes the Federal Constitution. The term "subsidiary legislation" is further defined by Item (88) of the said sub-section to mean any Order in Council, *proclamation*, rule, regulation, order, notification, by-law or other instrument made under any Act of Parliament, Ordinance, Enactment or other lawful authority and having legislative effect.

It is necessary to observe that for the purpose of interpreting the provisions contained in the Public Order (Preservation) Ordinance, 1958, the relevant interpretation law to be applied is the Interpretation and General Clauses Ordinance No. 7 of 1948, and not the Interpretation Act No. 23 of 1967 as the latter Act does not apply to the interpretation of Acts of Parliament enacted before May 18, 1967 (see section 2(2) of Interpretation Act, 1967 and P.U. 204/11.5.1967).

In view of the interpretations as set out above, it is clear that a proclamation or a declaration of renewal made by the Minister under section 3 of the Public Order (Preservation) Ordinance, 1958 comes within the ambit of section 57(1)(a) of the Evidence Ordinance. In the present case, although the proclamation was made by a Minister, I am unable to agree with the submission of learned counsel for the appellant that it should be construed as an executive act and should be proved under section 78 of the Evidence Ordinance by production of the *Gazette*. For the purpose of section 57(1)(a), the distinction between an executive act and an act made in the exercise of the power of legislation should be recognized. Be that as it may, in this particular case, the learned magistrate in construing section 57 of the Evidence Ordinance is only bound by section 57(1)(a) to take judicial notice of the proclamation when the relevant *Gazette* notification or publication made by the Minister is either quoted in the charge or adduced in evidence.

As there was no evidence at all that the alleged offence had taken place within a proclaimed area, no *prima facie* case had been made out and the appellant ought to have been acquitted and discharged without his defence being called.

I, therefore, allow the appeal and set aside the conviction and sentence.

Appeal allowed.

Conviction and sentence set aside.

Solicitors: *Lawrence & Joseph.*

ZAHARAH v. HONG KIN WONG & ANOR.

[O.C.J. (Mohamed Azmi J.) October 2, 1971]

[Kuala Lumpur — Civil Suit No. 299 of 1970]

Damages — Personal injuries — Absolute liability conceded — Assessment of general damages.

The plaintiff who was a passenger in a motor-car which was involved in an accident, suffered various injuries. The defendants conceded absolute liability. The parties agreed on special damages in the sum of $750. The only issue before the court was the amount of general damages to be awarded. The learned judge found it proper and helpful to divide the injuries sustained into four categories in assessing general damages in this case. General damages were assessed at $10,000. In arriving at this figure all relevant factors were taken into consideration including the age of the plaintiff, the fact that she was a married woman, and that there was no loss of future earnings.

Cases referred to:-

(1) *Patimah binte Mat & Ors.* v. *Yong Ah Chak* [1964] M.L.J. lxxiii.

(2) *Ng Beng* v. *Suki bin Ahmad* [1970] 1 M.L.J. xvi.

(3) *Too Kwee* v. *Chew Bah Chik* [1965] 2 M.L.J. xxvii.

(4) *Mat Derus bin Hamil & Ors.* v. *Sahadevan* [1965] 2 M.L.J. viii.

(5) *Chong Kim Kee* v. *Tan Kok Hua* [1968] 2 M.L.J. xxii.

(6) *Yong Cho Yeit* v. *Yap Yor Ching* [1966] 1 M.L.J. xxxiv.

(7) *Pang Mia Huan* v. *Lim Loo Cheong* [1967] 1 M.L.J. lxii.

(8) *Peh Joo Kim* v. *Yee Hong Kee & Ors.* [1964] M.L.J. xlv.

(9) *Hok Fook Hin* v. *Hashim & Anor.* [1968] 2 M.L.J. ii.

CIVIL SUIT.

S. T. Gamany for the plaintiff.

Khoo Eng Chin for the defendants.

Cur. Adv. Vult.

Mohamed Azmi J.: This is a claim for damages arising from a motor accident which took place on March 9, 1964 along Klang Road. The plaintiff was a passenger in a motor car No. BE 2907 driven by her husband when another motor car No. BK 3314 driven by the first defendant came from the opposite direction and collided with it. The second defendant is the owner of BK 3314 and is the employer or principal of the first defendant.

As a result of the accident, the plaintiff suffered various injuries. The defendants have conceded to 100 per cent liability. The parties have also agreed on special damages in the sum of $750. The only issue left before the court in this application is the amount of general damages.

The plaintiff is thirty seven years old. She was hospitalised from March 9, 1964 to May 5, 1964, a period of fifty five days, and thereafter she was treated as an outpatient till July 1, 1965. In assessing general damages in this case, I find it proper and helpful to divide the injuries sustained into four categories.

Under the first category was the comminuted fracture of the upper end of the plaintiff's right tibia and fibula. The fracture was united but with a permanent shortening of half an inch. There is also swelling of the knee due to the deformity of the upper end of the tibia. Her right thigh is wasted. The girth being seventeen inches compared to eighteen inches on the left side measured five inches above the knee cap. The deformity involves the articulate surface which is virtually certain to lead to osteoarthritis later. Counsel for both parties have quoted the cases of *Patimah binte Mat & Ors.* v. *Yong Ah Chak*[1] and *Ng Beng* v. *Suki bin Ahmad.*[2] Counsel for the plaintiff has also cited the case of *Too Kwee* v. *Chew Bah Chik.*[3] Under this category, I would assess general damages at $6,000.

For the fracture of the plaintiff's first and second ribs and tenderness over right upper chest, both counsel made reference to the case of *Mat Derus bin Hamil & Ors.* v. *Sahadevan.*[4] On behalf of the plaintiff, the case of *Chong Kim Kee* v. *Tan Kok Hua*[5] was also cited. In the present case, the fracture and tenderness have completely healed with no apparent disability. I would, therefore, award $1,500 under the second category.

As regards the fracture of the base of her third and fourth metatarsal bones, both counsel cited the case of *Yong Cho Yeit* v. *Yap Yor Ching.*[6] Reference was also made to the case of *Pang Mia Huan* v. *Lim Loo Cheong*[7] and *Peh Joo Kim* v. *Yee Hong Kee & Ors.*[8] Under this category, I award damages at $1,750.

The last category of injuries sustained by the plaintiff consisted of lacerations on her left eyebrow, chin and forehead. The lacerations have healed but have left permanent scars of one inch long over the left eyebrow, one inch long over the right cheek, half an inch long over the left cheek, and multiple scars under the chin including a curved scar three inches long. Counsel for the plaintiff has referred to the case of *Hok Fook Hin* v. *Hashim & Anor.*[9] Having regard to the nature of the scars, I would award damages at $750.

On the above basis, I consider it fair and reasonable to award a sum of $10,000 as general damages. In arriving at this figure, I have taken into consideration all relevant factors, including the age of the plaintiff, the fact that she is a married woman, and that there is no loss of future earnings.

There will, therefore, be judgment for the plaintiff as follows: —

(1) Special damages: $750;

(2) General damages: $10,000; and

(3) Costs of this suit including the costs of this application.

Judgment for the plaintiff.

Solicitors: *Daim & Gamany; Khoo & Sidhu.*

HENG KIM KHOON v. PUBLIC PROSECUTOR

[A.Cr.J. (Sharma J.) October 7, 1971]

[Ipoh — Criminal Appeal No. 51 of 1971]

Criminal Law and Procedure — Plea of guilty — Limited right of appeal — Revisionary powers of judge — Criminal Procedure Code (F.M.S. Cap. 6), ss. 305 & 325(i).

Dangerous Drugs — Possession — Dangerous Drugs Ordinance, 1952, ss. 9(1)(b) & 10(2)(a).

This was an appeal against sentence. The accused having pleaded guilty to the two charges against him under sections 9(1)(b) and 10(2)(a) of the Dangerous Drugs Ordinance, 1952, could not appeal against his conviction because of the provisions of section 305 of the Criminal Procedure Code. The accused asked the court to exercise its revisionary powers under section 325(i) of the Code.

At the trial, the charges were read over to the accused, explained and understood by him. He pleaded guilty thereto. He admitted the facts but in mitigation stated that the exhibits were not his and that they had been left behind by a friend. In spite of what the accused said, the learned president found him guilty and convicted him on the two charges.

Held: (1) proof of "possession" is the very essential ingredient of the offences under the Dangerous Drugs Ordinance, 1952;

(2) a plea of guilty only amounts to an admission that the accused committed the acts alleged against him and not an admission of the guilt under a particular section of the Act. If he pleads guilty under an erroneous view of the law his conviction cannot stand. In such a case the plea of